4/18/97

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

SECTION-BY-SECTION EXPLANATION AND JUSTIFICATION

"Public Housing Management Reform Act of 1997"

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

Section 1(a) provides that this Act may be cited as the "Public Housing Management Reform Act of 1997".

Section 1(b) contains the table of contents for the Act.

Section 2 contains the findings and purposes for the Act.

TITLE I--PUBLIC HOUSING AND RENT REFORMS

SEC. 100. ESTABLISHMENT OF CAPITAL AND OPERATING FUNDS.

Section 100 would consolidate and streamline the public housing program by amending current sections 14(a) and 9(a) of the U.S. Housing Act of 1937 ("the 1937 Act") to require the Secretary to establish one Capital Fund and one Operating Fund, respectively, for providing assistance to local PHAs.

Consolidating multiple programs is part of HUD's overall effort to respond to declining HUD staffing levels, PHA resources that are likely to remain level, and the need to give PHAs greater flexibility to make decisions that reflect local priorities and needs.

SEC. 101. DETERMINATION OF RENTAL AMOUNTS FOR RESIDENTS OF PUBLIC HOUSING.

Section 101(a) would amend section 3 of the 1937 Act to revise the method by which PHAs calculate household rents in the public housing and Section 8 programs. For public housing, PHAs would be able to set household rents at or below 30% of adjusted monthly income, subject to the minimum rent and any welfare rents, and any ceiling rents. For Section 8 project-based programs and tenant-based participants renting at or below the payment standard, rents would be set "at" 30% of adjusted monthly income, subject to the minimum rent and any welfare rent. Under current law, all households (except certain tenant-based

participants) must pay a monthly rent equal to the highest of (a) 30% of monthly adjusted income, (b) 10% of monthly gross income, or (c) the "welfare rent". In practical terms, rent is generally set at 30% of monthly adjusted income, and is generally referred to as the "Brooke rent". Monthly rent is also subject to minimum rent and ceiling rent provisions.

Section 101(b) would authorize the Secretary to develop a revised formula for allocating operating subsidies under section 9 of the 1937 Act. This new formula would expand the number and coverage of currently-authorized factors under section 9. The currently authorized factors include insurance costs; vacant units; and operating costs, projected income, and demographics of tenants and the geographic area as measured against the operational standards of a prototypical well-managed housing authority. The new section 101(b) would continue to utilize factors on vacancies, operating costs, projected income, etc. New factors authorized by section 101(b) are: quality of overall management; costs of operating assisted versus non-assisted units; vacancies resulting from any conversion to tenant-based assistance; provision of tenant self-sufficiency services; costs of conducting anti-crime activities; and the ability to administer operating subsidies effectively. The new formula would be developed in consultation with other interested parties.

Section 101(c) would authorize HUD to pay operating subsidy based on 30% of adjusted monthly income during a transition period prior to the establishment of the public housing operating subsidy formula authorized under Section 101(b).

A central part of the mission of public housing is to protect economically vulnerable families from excessive rent burdens. Therefore, this provision would retain, for the public housing and project-based programs, the Brooke rent cap of 30% of adjusted monthly income. The provision would also preserve the Brooke rent cap for tenant-based section 8 assistance for families receiving assistance at or below the payment standard. Some families will pay less than 30% of income due to the shopping incentive contained in section 203 of this bill. As in the current voucher program, families opting to rent units with rents above the payment standard may exceed the Brooke rent cap. At the same time, for public housing, this provision would give PHAs greater flexibility in rent setting, particularly to encourage PHAs to serve families with a broader range of incomes. Allowing PHAs to set rents below 30% of income eliminates the federally-imposed disincentive under current law, whereby a household's rent must increase in proportion to increases in income.

The Brooke rent structure (setting the family contribution that determines the subsidy amount equal to 30% of adjusted income) would be retained for tenant-based program participants renting at or below the payment standard. Providing a deeper subsidy to some households (by allowing PHAs to set tenant rents below 30% of adjusted income) would mean that fewer families are served, since PHAs receive a fixed annual amount from HUD for tenant-based assistance. Due to the significant numbers of extremely low-income households with severe housing needs, as well as relaxed targeting requirements for public housing, it is critical not to reduce the number of families served by the tenant-based program.

The Brooke rent structure would also be retained in the Section 8 project-based program, since HUD is legally obligated to pay the difference between Section 8 contract rent and the tenant rent. Setting tenant rents at less than 30% of adjusted income in the project-based program would result in additional demands on HUD's resources.

SEC. 102. MINIMUM RENTS FOR PUBLIC HOUSING AND SECTION 8 PROGRAMS.

Section 102 would amend section 3(a) of the 1937 Act to require that families occupying public housing and Section 8 units pay minimum rents of $25 per month, with HUD or PHA authority to require specific hardship exemptions. Current law allows minimum rents up to $50 per month, through FY 1997.

Setting the minimum rent at $25 per month is sufficient to make the symbolic point that occupying an assisted unit would not be "free" and, rather, that each family in assisted housing should make some contribution to support operation of the unit. Allowing minimum rents above $25 per month would pose a genuine economic hardship to families who, for whatever reason, have no significant income. It would be a matter of national policy to protect such residents by prohibiting minimum rents above $25 per month.

Further, PHAs would be permitted to establish hardship exemptions, including exemptions for entire classes of people. Also, HUD would have authority to require PHAs to grant hardship exemptions from minimum rents for certain classes of economically vulnerable households, such as recently incapacitated workers who have not yet begun to receive compensation.

SEC. 103. PUBLIC HOUSING CEILING RENTS.

Section 103 would amend section 3(a)(2)(A) of the 1937 Act to permanently authorize PHAs to adopt reasonable ceiling rents for public housing. Current law (under section 402(f) of the Balanced Budget Downpayment Act of 1996, as amended by section 201(c)(2) of the FY 1997 VA, HUD, and Independent Agencies Appropriations Act) allows ceiling rents that are priced competitively with private units, but that are not less than 100% of operating costs. HUD's bill would allow PHAs, for family housing developments, to adopt ceiling rents that reflect market value, but that are not less than 75% of operating costs. In elderly/disabled developments, ceiling rents could not be less than 100% of operating costs, as in current law.

Allowing PHAs to set reasonable ceiling rents is vital to attracting and retaining working families in public housing. The cost floor for ceiling rents in family developments should be lowered from 100% to 75% of operating costs for two reasons. First, a floor of 100% of operating costs is higher than the market rental value for units in many viable public housing developments. Second, the 100% floor would result in ceiling rents that are too high in many localities to benefit families with full-time workers who earn the minimum wage. Therefore, such families will not choose to remain in or move into public housing, making it unlikely that PHAs could achieve a more diverse income mix than they now have. Because the need to increase the mix of incomes in elderly/disabled developments is not as compelling as for family housing, the bill does not propose to lower the floor for ceiling rents in elderly/disabled developments below the current-law level of 100% of operating costs.

SEC. 104. DISALLOWANCE OF EARNED INCOME FROM PUBLIC HOUSING AND SECTION 8 RENT AND FAMILY CONTRIBUTION DETERMINATIONS.

Section 104 would replace the current income disallowance in section 3(c) of the United States Housing Act of 1937 and replace it with a bar against any rent increase for public housing or Section 8 households for 18 months as the result of the employment of a family member who was previously unemployed for one or more years. Any household with an income disallowance under present law would be protected under the new law. Any rent increase due to the continued employment of the family member would be phased in over a 3-year period after the 18 month moratorium.

This provision would provide work incentives and facilitate the transition from welfare to work. Phasing in any rent increase would prevent the newly employed person from experiencing a large increase in rent that would otherwise discourage them from working or staying in assisted housing. This provision would encourage working families who are positive role models to stay in public housing and other assisted units and foster stable living environments.

Under current law (found in the undesignated paragraph of section 3(c) of the 1937 Act), only the earnings resulting from participation in certain government-funded training programs are excluded from rent calculations for a period of 18 months. Thus, it often does not cover those who move directly from welfare to work. Various other earned income exclusions and disregards of less significance have been authorized by statute or implemented by regulation in the past. Also, the current law only extends to the public housing program. Because of the cost of extending this provision to the Section 8 program, section 104 specifies that the provision would apply to tenant-based assistance provided by PHAs beginning in FY 1999, but only to the extent approved in appropriations Acts.

SEC. 105. PUBLIC HOUSING HOMEOWNERSHIP.

Section 105 would amend section 5(h) of the 1937 Act to permit intermediate sales of public housing to any organization serving as a conduit for homeownership sales to eligible families. An organization must sell the units to eligible families within 5 years of acquiring the units. The organization must use the proceeds from resale and from managing the units for housing purposes, such as funding resident organizations and reserves for capital replacements. Current law requires direct transfer to eligible families.

This provision would facilitate the sale of public housing to eligible families by allowing conduit organizations to hold the properties temporarily. Such organizations could manage and organize the individual unit sales and work with individual households to establish specific timetables and address specific problems.

SEC. 106. PUBLIC HOUSING AGENCY PLAN.

Section 106 would create a new section 5A of the act and would substantially deregulate HUD oversight of non-troubled PHAs

by consolidating and streamlining PHA reporting requirements and HUD review of PHA submissions.

Both the benefits of allowing PHAs to make local decisions and the reductions in funding for both PHAs and HUD make responsible deregulation imperative, particularly through the elimination of unnecessary, time-consuming HUD reviews of PHA decisions. Due to projected declines in PHA resources and HUD staffing levels (from 11,000 to 7,500 persons), substantial deregulation steps must be taken. Limiting HUD's review and approval obligations to the most important matters will provide adequate oversight of non-troubled PHAs, and will permit HUD to focus its efforts and resources on PHAs which are designated as troubled or are at risk of being designated as troubled.

Under new section 5A(a), each PHA would submit, annually, a PHA plan with up to nine parts, as applicable to the PHA.

Part one would be the 5-year capital plan now required under current section 14(e)(1), and would be applicable to any PHA which sought capital funds from HUD.

Part two would be the statement of capital activities and expenditures now required under current section 14(e)(3).

Part three would be an annual description of the PHA's plans, if any, for demolition and disposition under section 18 of the 1937 Act, for homeownership under section 5(h) of the act, or for designated housing under section 7 of the 1937 Act. Part three of the plan would, at the PHA's option, consist either of the actual application for approval of these activities, or only a description of any of these activities that the PHA intended to undertake in the coming year. In either case, approval of such activities would be determined under the controlling section of the act -- for example, section 18 in the case of a demolition application.

Part four of the PHA plan would be an annual submission consisting of the following information: the PHA's tenant selection, admission, and assignment policies, including any admission preferences; rent policies of the PHA, including income and rent calculation methodology, minimum rents, ceiling rents, and income exclusions, disregards, or deductions; any cooperation agreements between the PHA and State or local welfare and employment agencies to target services to public housing residents, which PHAs are to use their best efforts to enter into; and the PHA's anti-crime and security plans, including the plan to be carried out

with assistance under the drug elimination program. In cases where, in the time since its previous annual submission, a PHA has made no changes to the information required to be submitted, then the PHA shall only state in its annual submission that there are no changes to report.

Part five of the PHA plan would apply to PHAs that are troubled or at risk of becoming troubled, and would consist of other appropriate information that HUD requires by its authority under section 6(j) of the act.

Part six of the plan would consist of other information that HUD needs in connection with providing operating subsidies to PHAs under section 9 of the act.

The bill would also require a PHA to provide three annual certifications to HUD:

The first would be a certification that the PHA has met the citizen participation requirements under proposed section 5A(b). Under these requirements, which are the same as those under current law for the 5-year comprehensive plan, a PHA must consult with local government officials and public housing tenants, and must hold at least one public hearing prior to adoption of the PHA plan.

The second certification would state that the PHA will carry out its plan in conformity with certain civil rights, fair housing, and handicapped accessibility laws, including that the plan will affirmatively further fair housing.

The third certification would certify that the PHA plan is consistent with the consolidated plan for the locality.

In developing the PHA plan, each PHA must consult with appropriate local government officials and with public housing residents and must hold at least one public hearing as provided in section 5A(b).

In addition to the annual submission requirements in the PHA plan, proposed section 5A(c) states HUD's authority to require the submission of any information appropriate or necessary to assess the management performance of PHAs and resident management corporations under section 6(j) and to monitor assistance provided under the act.

Under proposed section 5A(d), HUD review of PHA submissions would be limited to the areas of greatest funding or program risk--capital plans; demolition and disposition, including

disposition for homeownership; and designated housing. The review standard for each of the elements in parts one, two, and three of the plan would be that set forth in the controlling section of the act. Thus, the PHA's 5-year comprehensive plan would be reviewed under section 14(e)(1) of the act and the PHA's annual statement would be reviewed under section 14(e)(3) of the act. Further, a PHA would have to apply for and receive HUD approval under section 18 for demolition or disposition under section 18, under section 5(h) for dispositions for homeownership, and under section 7 for designated housing.

The annual submission required as part four of the plan--covering tenant selection, admission, and assignment policies; rent policies; cooperation agreements with welfare and employment agencies; and anti-crime and security plans -- would be submitted to HUD only for informational purposes. The annual submission would not be reviewed by HUD unless the Department received a challenge as to its completeness, in which case HUD would review it only to determine whether it sets forth the required information.

Submissions under part five of the plan (other appropriate information from at risk or troubled PHAs) and part six of the plan (other information required in connection with the provision of operating subsidy) would be reviewed in accordance with sections 6(j) and 9 of the act, respectively.

The certifications as to citizen participation and consistency with the consolidated plan would not be reviewed by HUD unless challenged, in which case HUD would review the certification to determine only whether it sets forth the required information and whether there is any available evidence that tends to challenge in a substantial manner any certification made under those subsections. The certification as to civil rights, fair housing, and accessibility to persons with disabilities laws would be reviewed by HUD to determine only whether it sets forth the required information and whether there is any available evidence that tends to challenge it in a substantial manner.

SEC. 107. PHMAP INDICATORS FOR SMALL PHAs.

Section 107 would amend section 6(j)(1) of the 1937 Act to streamline the Public Housing Management Assessment Program ("PHMAP") for small PHAs (those which own or operate fewer than 250 public housing units). Proposed section 107 would limit to

five the number of PHMAP indicators to which small PHAs are subject. The five that apply would be (1) the number and percentage of vacancies in a PHA's inventory, including the progress the PHA has made within the previous three years to reduce vacancies; (2) the percentage of rents uncollected; (3) the PHA's ability to produce and use accurate and timely records of monthly income and expenses and to maintain at least a three-month reserve; (4) the annual inspection of occupied units and the PHA's ability to respond to maintenance work orders; and (5) one additional factor deemed appropriate by the Secretary.

This provision is part of a strategy of responsible deregulation of the public housing program, particularly for small PHAs. About seventy-five percent of all housing authorities (approximately 2,500) have fewer than 250 units. Many small agencies are among the nation's best managed and offer high-quality housing. A streamlined evaluation system, with fewer indicators, for non-troubled small PHAs would reduce the administrative burden which is particularly onerous for smaller agencies. However, these agencies would remain subject to compliance with statutory requirements of the program, such as rent limitations, income targeting, demolition and disposition approvals, and audit requirements.

SEC. 108. PHMAP SELF-SUFFICIENCY INDICATOR.

Section 108 would amend section 6(j)(1)(A) of the 1937 Act to authorize a PHMAP indicator that would assess the extent to which the PHA coordinates and promotes participation by families in programs that assist them to achieve self-sufficiency. There is no such provision in current law.

One of the fundamental goals of assisted housing is to continue to provide incentives and assistance to working families and those pursuing work. This section would strengthen the link between housing assistance and welfare reform, by requiring PHAs to coordinate and promote participation by families in self-sufficiency programs. Recognizing the PHAs' primary roll is to provide high-quality housing, this provision does not require PHAs to initiate or manage such programs, only to facilitate linkages between residents and programs initiated and managed by others.

SEC. 109. EXPANSION OF POWERS FOR DEALING WITH PHAS IN SUBSTANTIAL DEFAULT.

Section 109 would amend the provisions in section 6(j)(3) of the 1937 Act that give HUD options for dealing with PHAs in substantial default under their Annual Contributions Contracts.

Section 6(j)(3)(A), which gives HUD four options for responding to substantial defaults, would be amended in several respects. Clause (i) (providing for solicitation of proposals for alternative management of public housing) and clause (iv) (redesignated as clause (v), and permitting HUD to require an agency to provide for alternative management of public housing) would be extended to cover section 8 and any other program of an agency. Clause (ii), permitting HUD to petition for the appointment of a receiver, would not be amended. Clause (iii), permitting HUD to solicit proposals for alternative construction management to oversee use of modernization assistance, would not be amended. Finally, a new clause (iv) would be added to authorize HUD to take possession of the PHA, including all or part of any project or program (including the section 8 program) of the agency.

For any troubled PHA that cannot correct its troubled status within one year of troubled designation, section 6(j)(3)(B) would require the Secretary, in the case of a PHA with 1,250 or more units, to petition for the appointment of a judicial receiver. In the case of a PHA with fewer than 1,250 HUD must either a) petition for the appointment of a judicial receiver or b) take possession of the PHA and appoint, on a competitive or noncompetitive basis, an individual or entity to act as an administrative receiver. The administrative receiver would assume the responsibilities of the Secretary for the administration of all or part of the PHA.

Sections 6(j)(3)(C) and (D) would give both a court-appointed receiver and HUD (or the administrative receiver that has assumed its responsibilities) expanded powers for correcting PHA deficiencies. These powers are the express authority to (1) abrogate any contract that substantially impedes correction of the substantial default; (2) demolish and dispose of the assets of the PHA in accordance with section 18, including the disposition by transfer of properties to resident-supported nonprofit entities; (3) seek the establishment (as permitted by applicable State and local law) of one or more new PHAs; and (4) seek consolidation of all or part of a PHA into other well-managed PHAs, with the consent of the well-managed PHA. Neither the receiver nor HUD would be required to comply with any State or local law relating to civil service requirements, employee rights (other than civil rights), procurement, or financial or administrative controls that, in the written determination of the receiver or HUD, substantially impedes correction of the

substantial default. In addition, HUD would be given such additional powers as a district court of the United States could confer on a receiver to achieve the purposes of the receivership. Receivers, however, whether judicially- or administratively appointed, would only be permitted to exercise the powers set forth in (3) and (4), above, if HUD determines such action to be appropriate.

This bill would retain, with minor changes, subparagraphs (B), (C), and (D), as currently found in section 6(j)(3), redesignating them as subparagraphs (E), (F), and (G). Subparagraph (E), authorizing HUD to provide necessary assistance to receivers and other entities, would be extended to include other programs of the agency. Subparagraph (F), concerning a court's appointment of a receiver, would be amended to add a new second sentence specifying whom the court may appoint. Subparagraph (G), permitting termination of receivership upon the petition of any party, would be amended to permit a court to terminate the receivership when the court determines that all defaults have been cured or the PHA is capable of again discharging its duties. Under current law the test is whether the PHA can operate the housing in accordance with all program requirements.

A new subparagraph (H) contains a hold harmless clause which would deem HUD (or administrative receiver appointed by HUD) or the court-appointed receiver to be acting in the capacity of the PHA. Any liability, regardless of whether the incident giving rise to that liability occurred while HUD or the receiver was in possession of the PHA (including any project or function of the agency), would be incurred by the PHA.

Subsection (b) would make this section applicable to actions taken before, on, or after the effective date of this Act. This subsection would also make clear that it is applicable to any receivers appointed for a PHA before the date of enactment of this section, even if not petitioned for by HUD.

The new section 6(j)(3) provisions will authorize three elements that are essential for the recovery of troubled agencies but are not mandated by current legislation. First, this language would establish a mandatory trigger of receiverships for any agency that cannot work itself off of the troubled list after one year. This language would establish, in law, clear guidance on an agency's timeframe for correcting poor performance. Second, this language will enable the Department to appoint a qualified third party to manage the recovery. HUD does not now, nor will it in the future, have the resources to manage the day-to-day operations of troubled PHAs. It is essential that this

responsibility be given to a qualified, independent third party. This will allow HUD to focus on more strategic issues and on identifying and rectifying problems at PHAs that are at-risk of becoming troubled. Third, this language would expand the powers of the receivers to give them the tools necessary to turn troubled agencies around. These tools include the ability to override State or local law relating to civil service requirements, employee rights (other than civil rights), procurement, financial or administrative controls that, in HUD's determination, substantially impede correction of the substantial default.

SEC. 110. PUBLIC HOUSING SITE-BASED WAITING LISTS.

Section 110 would amend section 6 of the 1937 Act to permit PHAs to establish procedures to maintain site-based waiting lists for admissions to public housing developments. All procedures must comply with all provisions of Title VI of the Civil Rights Act of 1964, the Fair Housing Act, and other applicable civil rights laws.

Site-based waiting lists can help to foster a sense of community in public housing neighborhoods by strengthening existing ties to family, school, work, and neighborhood institutions and can also promote other policy objectives of the public housing program. For example, allowing applicants to move to the development of their choice, may attract to public housing communities a more diverse population with a broader range of incomes. As a result, more working families may apply to and move into public housing, providing role models and access to information about job opportunities for current public housing residents. Serving households with a broader range of incomes may also lead to a reduction in PHA operating subsidy needs.

SEC. 111. COMMUNITY SERVICE REQUIREMENTS FOR THE PUBLIC HOUSING AND SECTION 8 PROGRAMS.

Section 111 would amend section 12 of the 1937 Act to require adult members of families residing in public housing or assisted under Section 8 to participate, without compensation, at least 8 hours per month in community service activities within their communities. Such community service could not include political activity.

Exceptions from the work requirement would include the elderly; the disabled who are unable to work; those working at

least 20 hours per week; students; those receiving vocational training; single parents, spouses or grandparents of an otherwise exempt individual who are primary caretakers of children six years of age or younger, elderly persons or persons with disabilities; and those receiving assistance under the Temporary Assistance for Needy Families program under part A of title IV of the Social Security Act (and therefore covered by any State welfare program work requirements).

SEC. 112. COMPREHENSIVE IMPROVEMENT ASSISTANCE PROGRAM STREAMLINING.

Section 112 would amend section 14(d) of the 1937 Act to convert modernization funding for small PHAs (those which own or operate fewer than 250 public housing units) from a competitive grant program to a formula-based program. Currently, a small PHA receives modernization funding only if its application is approved by HUD in an annual competition under the Comprehensive Improvement Assistance Program ("CIAP"). By contrast, large PHAs receive modernization funding each year based on a formula under the Comprehensive Grant Program ("CGP"). Converting CIAP to a formula program would have two major benefits. First, it would reduce the administrative burden on PHAs and HUD which is now imposed by the annual CIAP application process. Second, it would assure small PHAs a steady, predictable funding stream for capital improvements. Even though the annual formula amount may be small for these PHAs in any given year, a predictable funding stream would enable them to do better capital planning. Further, proposed section 113 would give small PHAs full fungibility between operating and capital funds, allowing the accumulation of funds over more than one year to provide for the cost of major repair items.

SEC. 113. FLEXIBILITY FOR PHA FUNDING.

Section 113 would permanently extend the temporary authority provided in HUD's FY 1996 and 1997 appropriations acts that gives PHAs more flexibility in the use of their public housing modernization and development assistance. It would also permanently extend temporary authority in such acts that established rules governing mixed-finance developments.

The permanent authority in section 14(q)(1) of the 1937 Act would specifically enable PHAs to use their modernization assistance under section 14 and their development assistance under section 5 for any eligible activity authorized under

sections 14, 5, or applicable appropriations acts (HOPE VI). Also, non-troubled PHAs would be permitted to use up to 10% of their capital funds for operating subsidy purposes authorized by section 9. Troubled PHAs would have to obtain HUD approval to do so. Current law does not distinguish between troubled and non-troubled PHAs in this regard.

In addition, section 113 of the bill would create full fungibility for small PHAs between their operating subsidy and their capital funds. Allocation of operating and capital funds to small PHAs would continue to be made separately, on the basis of two separate formulas to ensure formula equity. However, small PHAs would have complete flexibility in deciding how to use these funds for permitted activities, including the provision of security and resident services. Providing capital funds to small PHAs through a formula, instead of the application-driven CIAP structure, would reduce administrative burdens and would provide these PHAs with a predictable funding stream with which to plan for capital improvements.

Subsection (b) would permanently authorize existing appropriations act provisions that amend section 14(q)(2) of the act and permit PHAs to use capital or operating assistance in mixed finance developments. The public housing units in a mixed-finance development would have to be developed, operated, and maintained as public housing. To the extent necessary to allow a PHA to undertake or permit measures that enhance the viability of the public housing units included in a mixed-finance development, HUD could waive, or specify alternative requirements for, rules established by HUD under the 1937 Act governing the development, management, and operation of public housing units. A PHA could, in accordance with guidelines established by the Secretary, provide capital assistance to a mixed-finance development in the form of a grant, loan, or other form of investment in the project, including the drawdown of funds on a schedule commensurate with construction draws for deposit into an interest earning escrow account to serve as collateral or credit enhancements for bonds issued by a public agency for the construction or rehabilitation of the development.

Under proposed section 2(b), units in mixed-financed developments would have to be available for occupancy by low-income and very low-income families for 40 years, which is the same as for ordinary public housing units. See sections 14(q)(2)-(4) of the 1937 Act.

Mixed-financed developments are a promising means of replacing traditional public housing developments, particularly

because they leverage public and private resources other than public housing program funds and are likely to attract households with a broader range of incomes than are currently served by public housing. To invest the substantial front-end effort required for these transactions, PHAs need to know that these transactions will be permanently authorized.

SEC 114. REPLACEMENT HOUSING RESOURCES.

Section 114 would amend section 9(a)(3)(B) of the 1937 Act to affirm that, where a PHA demolishes obsolete public housing units, the PHA's replacement housing units are eligible for operating subsidy. Under the one-for-one replacement housing requirement (now suspended, and proposed to be permanently repealed), a PHA would have had to provide replacement units before demolishing obsolete units, and would simply have shifted its operating subsidy from the demolished units to the replacement units. With the suspension and anticipated repeal of one-for-one replacement, there may now be a significant delay between the demolition of units and the PHA's decision to provide any replacement units. If a PHA needs to produce replacement housing to meet community needs, then this delay may make the PHA apprehensive about undertaking the demolition (and thus losing operating subsidy) before it provides the replacement housing. If the PHA does not produce replacement units, then its operating subsidy eligibility is reduced proportionately. To encourage PHAs not to wait to demolish obsolete developments, HUD proposes to affirm that a PHA retains its operating subsidy eligibility for replacement units which it provides within 5 years.

Similarly, section 114(b) would amend section 14(k)(2)(D)(ii) of the 1937 Act which, under current law, provides that where an existing unit is demolished or disposed of, HUD shall reduce the amount the PHA receives under the modernization fund formula. The amendment proposed by this section would provide that, for the 5-year period after demolition or disposition, the Secretary may provide for no adjustment, or a partial adjustment, of the amount the PHA would otherwise receive, provided that the PHA uses such funds to produce replacement housing or for physical improvements to preserve viable public housing units. As with the operating subsidy provision, above, this section of the bill would encourage PHAs to make wise asset management decisions as to their housing stock. In particular, it would mitigate the existing incentive for a PHA to keep obsolete, non-viable units to maintain its modernization fund eligibility level. Under this proposal, by contrast, a PHA would have an incentive to demolish

the obsolete, non-viable units and use the modernization funds for replacement housing or to preserve other viable public housing units.

SEC. 115. REPEAL OF ONE-FOR-ONE REPLACEMENT HOUSING REQUIREMENT.

Section 115 would make permanent the current suspension of the one-for-one replacement housing requirement for public housing. Under section 18 of the 1937 Act, the one-for-one replacement requirement mandates that PHAs provide an additional unit of public housing for each unit demolished or disposed of. This requirement has been temporarily suspended since the 1995 Emergency Supplemental Appropriations and Rescissions Act. Without further legislative action, the suspension would terminate at the end of FY 1997.

The one-for-one replacement housing requirement has been counterproductive. Because there typically have been no funds to fulfill it, as well as an insufficient number of suitable sites, the requirement has simply prevented the demolition of obsolete and dangerous projects. PHAs will be able to plan and proceed to rationalize their housing stock more effectively if the one-for-one replacement requirement is permanently repealed.

SEC. 116. DEMOLITION, SITE REVITALIZATION, REPLACEMENT HOUSING, AND TENANT-BASED ASSISTANCE GRANTS FOR DEVELOPMENTS.

Section 116 would amend section 24 of the 1937 Act, reauthorizing the Revitalization of Severely Distressed Public Housing program (HOPE VI). It would also make significant program improvements, based on HUD's experience in implementing the program, and would make other changes to strengthen fiscal accountability and oversight. This will enhance HUD's ability to replace the worst public housing developments with viable, small-scale apartments that strengthen communities and support residents' efforts to become self-sufficient through education and skills training, job placement and development, and other supportive services. In addition, this section would take tough action against PHAs that fail to deliver on their plans by requiring HUD to withdraw funds from poor program performers.

Subsection (a) would establish the following purposes for assistance to PHAs: (1) to reduce the density and improve the living environment for public housing residents of

severely distressed public housing through the demolition of obsolete public housing developments (or portions thereof); (2) to revitalize sites (including remaining public housing dwelling units) on which such public housing developments are located and contribute to the improvement of the surrounding neighborhood; (3) to provide housing that will avoid or decrease the concentration of very low-income families; and (4) provide tenant-based assistance in accordance with the provisions of section 8 of the 1937 Act for the purpose of providing replacement housing and assisting residents who will be displaced by the demolition.

Subsection (c) would require at least a 5 percent match of funds from other sources, including amounts from other Federal sources, any State or local government sources, any private contributions, and the value of any in-kind services or administrative costs provided.

Subsection (d)(1) would authorize the Secretary to make grants to applicants to carry out demolition, revitalization, and replacement programs for severely distressed public housing. Grants may only be made if the PHA demonstrates that the neighborhood is or will be a viable residential community. The Secretary could provide grants providing assistance for one eligible activity or a combination of eligible activities under this section, including assistance only for demolition and assistance only for tenant-based assistance under section 8.

The eligible activities subsection would be amended to include abatement of environmental hazards and demolition, replacement housing, and any necessary supportive services (which may not total more than 15% of any grant).

The selection criteria subsection would be amended to require applications for demolition to include the need for demolition, taking into account the effect of the distressed development on the PHA and the community, the extent to which the PHA is not able to undertake such activities without a grant under this section, and such other factors the Secretary determines appropriate.

The selection criteria would be amended to require applications for demolition, revitalization, and replacement to include: (1) the relationship of the grant to the comprehensive plan for the locality; (2) the extent to which the grant will result in a viable development which will foster the economic and social integration of pubic housing residents and the extent to which the development will enhance the community; (3) the capability and record of the applicant PHA, its development team,

or any alternative management agency for the agency, for managing large-scale redevelopment or modernization projects, meeting construction timetable, and obligating amounts in a timely manner; (4) the extent to which the PHA is not able to undertake such activities without a grant under this section; (5) the extent of involvement of residents, State and local governments, private service providers, financing entities, and developers, in the development of a revitalization program for the development, (6) the amount of funds and other resources to be leveraged by the grant, and; (7) such other factors as the Secretary determines appropriate.

Tenant-based assistance could be allocated on a non-competitive basis in connection with the demolition or disposition of public housing.

The Secretary would have waiver authority or could specify alternative requirements for, rules established under this section, to the extent necessary to enhance the viability of public housing developed or redeveloped under this section.

In administration of the program, the Secretary could require a grantee to make arrangements to use an entity other than the PHA to carry out the activities assisted under the revitalization plan.

The Secretary would be required to withdraw any unobligated grant amount if a grantee does not sign the primary construction contract within 18 months. Such amounts would be redistributed to other applicants.

Further, each grant agreement must provide for interim checkpoints and for completion of physical activities within 4 years from the date of the grant agreement. The Secretary is to enforce this requirements through default remedies up to and including withdrawal of funding. The Secretary could provide for a longer timeframe, but only when necessary due to factors beyond the control of the grantee.

These provisions relating to timely expenditure of funds would not apply to grants for tenant-based assistance under Section 8.

Section 18 of the 1937 Act would not apply to the demolition of developments approved under this section.

The term "supportive services" would include all activities that would promote upward mobility, self-sufficiency, and improved quality of life for the residents of the public housing

development involved, including literacy training, job training, day care, and economic development activities.

There would be authorized to be appropriated for grants under this section, $524,000,000 for FY 1998 and such sums as may be necessary for each of fiscal years 1999 through 2002.

The Secretary could use up to 2.5 percent of the amount appropriated each year for technical assistance, program oversight, and fellowships for on-site PHA assistance and supplemental education. Technical assistance could be provided directly or indirectly by grants, contracts, or cooperative agreements, and could include training, and the cost of necessary travel for participants in such training, by or to officials of HUD, of PHAs, and of residents. HUD could use technical assistance funds for program oversight to contract with private program and construction management entities to assure that development activities are carried out in a timely and cost-effective manner.

SEC. 117. PERFORMANCE EVALUATION BOARD.

Section 117 would establish a Performance Evaluation Board to assist the Secretary in improving and monitoring the system for evaluation of PHA performance. This includes studying and making recommendations to the Secretary on the most effective, efficient and productive method or methods of evaluating the performance of PHAs, consistent with the overall goal of improving management of the public housing and choice-based rental housing programs.

Section 117(b) authorizes a board with at least 7 members with relevant experience, to be appointed by the Secretary as soon as practicable, but not later than 90 days after enactment of the act. In appointing members, the Secretary would have to assure that at least one member of the board has each of the following backgrounds: public housing authority organizations; public housing resident organizations; real estate management, finance, or development; and local government.

The board would have five functions, as needed. First, the board would examine and assess the need for further modifications to or replacement of the Public Housing Management Assessment Program, under section 6(j) of the 1937 Act. Second, the board would examine and assess models that are used in other industries or public programs to assess the performance of recipients of assistance, including accreditation systems, and the

applicability of those models to public housing and choice-based rental housing. Third, the board would develop standards for professional competency for the public housing industry, including methods of assessing the qualifications of employees of PHAs, such as systems for certifying the qualifications of employees. The board could undertake this function either itself, or through another body. Fourth, the board would develop a system for increasing the use of on-site physical inspections of public housing developments. Fifth, the board would develop a system for increasing the use of independent audits, as part of the overall system for evaluating the performance of PHAs.

The board would issue two interim reports on its activities -- the first not later than 3 months, and the second not later than one year, after the appointment of the seventh member of the board. The board would issue a final report with recommendations one year after the second interim report is issued. The final report would include findings and recommendations of the board based upon the functions carried out under this section.

After the board issues its final report, it may be convened by its chair, upon the request of the Secretary, to review the performance and results of its activities. The board would have a duration of 7 years.

The Secretary would be authorized to use any amounts appropriated under the head Preserving Existing Housing Investment, or predecessor or successor appropriation accounts, without regard to any earmarks of funding, to carry out this section.

SEC. 118. ECONOMIC DEVELOPMENT AND SUPPORTIVE SERVICES FOR PUBLIC HOUSING RESIDENTS.

Section 118 would provide authority to combine the formerly separate Tenant Opportunity Program (TOP) and Economic Development/Supportive Services (EDSS) grant programs into one competitive grant program under a new section 28 of the 1937 Act. The EDSS grants have previously been authorized through appropriations. Under this program, public housing authorities, resident management or other resident groups, and other organizations will compete for one pot of funding. These groups may use grants under this section to undertake activities that will provide supportive services to residents as well as encourage resident self-sufficiency and economic development activities in support of resident self-sufficiency. Grantees must be able to leverage a $2 matching contribution for every $1

granted under this program. No more than 50 percent of the match may be in the form of an in-kind contribution. The language also authorizes the Department to set aside a portion of funds to be awarded for technical assistance to and on behalf of grantees.

Permanent authorization of this grant program is an extension of the Department's efforts to encourage resident self-sufficiency. The dual influences of welfare reform and restricted financial resources at the federal level have reinforced this need to support resident efforts to become or remain economically and otherwise self-sufficient and increase tenant incomes in general. These grants will provide financial and technical support to the efforts of PHAs, resident groups, and other organizations, to assist families that are moving to independence, work, or better work. Eligible activities to this effect include the provision of supportive services, job readiness activities (including education, job counseling, transportation and child support) and economic development activities.

In addition to providing authorization for appropriations, however, this legislation will create a more effective grant program in a number of ways. First, it combines what were formerly two separate competitions into one competitive process. This merger will reduce administrative burdens on the Department and applicants while allowing the Department to select the best programs and applicants nationally from one pool. Second, leveraging requirements will ensure that grantees are truly committed to providing the best program possible. Leveraging is also likely to encourage coordination and partnerships between organizations with similar purposes. Third, grantees choosing to offer job training and placement services will be selected on the extent to which they coordinate their services with those offered under other Federal programs. This will ensure maximum coordination between Federal programs. Fourth, to ensure financial effectiveness and accountability, the Secretary could require that resident-group grantees utilize PHAs as grant administrators. Finally, this language adds a new set-aside for technical assistance and clearinghouse services. These activities will enhance the Department's capacity to facilitate best practices and maximize program effectiveness among grantees.

SEC. 119. PENALTY FOR SLOW EXPENDITURE OF MODERNIZATION FUNDS.

Section 119 would delete current section 14(k)(5) of the 1937 Act and replace it to provide that a PHA would have to obligate its modernization assistance within 18 months of the

date funds become available to the PHA for obligation. HUD may extend this time period for up to 1 year if a PHA's failure to obligate its assistance is due to events beyond the PHA's control. HUD may also provide an exceptions (a) for de minimis amounts; (b) to allow a small PHA to accumulate sufficient funding for modernization needs; and (c) for any PHA to accumulate enough funding for replacement housing.

HUD may not award modernization assistance for any month in a year in which the PHA has funds unobligated in violation of the 18-month requirement for obligation of assistance, above. During such a year, HUD would have to withhold all modernization assistance which would otherwise be due the PHA. If the PHA cured its default during the year, then it would be provided with the share attributable to the months remaining in the year. Any funds not provided to the PHA would be added to the pool of funds available to all PHAs in the following year.

If HUD has consented, before enactment of this provision, to an obligation period for any PHA that is longer than that provided in this provision, then that PHA would not be deemed to be in violation of the 18-month obligation requirement described above. However, notwithstanding any prior HUD consent, all funds appropriated in FY 95 and prior years would have to be fully obligated in FY 98, and all funds appropriated in FY 96 and 97 would have to be fully obligated in FY 99.

In addition, a PHA must spend any modernization assistance within 4 years (plus the period of any extension approved by the Secretary under subparagraph (A)) of the date funds become available to the PHA for obligation. HUD may enforce this requirement through default remedies up to and including withdrawal of the funding. Any obligation entered into by a PHA shall be subject to the right of HUD to recapture the amounts for violation by the PHA of this requirement.

SEC. 120. DESIGNATION OF PHAS AS TROUBLED.

Section 120 amends section 6(j) of the 1937 Act to provide that the Department may designate a public housing authority as troubled if it fails to provide acceptable basic housing conditions to residents. Section 120(a) adds an additional indicator to the list of statutory management assessment indicators under 6(j)(1)(A) (as amended by section 107 and 108 of this bill) that will reflect whether an authority is providing acceptable housing conditions. Section 120(b) provides that a housing authority that fails to provide acceptable physical conditions will be automatically

designated as troubled under section 6(j)(2)(A)(i) of the 1937 Act, even if the HA does not meet any other criteria for troubled designation. Finally, section 120(c) adds language to section 6(j)(2)(A)(i) of the 1937 Act to provide authorization for an alternative evaluation system to the indicators established in 6(j)(1)(A).

Section 120 will give the Department the ability to strengthen the evaluation system for public housing agencies, particularly with regard to their ability to provide acceptable housing conditions to families living in public housing. A common concern regarding the currently-authorized system of indicators is that it fails to completely reflect the quality of the physical conditions of public housing developments. Section 120 would address this concern.

SEC. 121. VOLUNTEER SERVICES UNDER THE 1937 ACT.

Section 121 would amend section 12(b) of the 1937 Act by revising the existing exception to Davis-Bacon wage standards for volunteers so that it is consistent with the volunteer exceptions applicable to other statutes under the Community Improvement Volunteer Act of 1994 and with the volunteer principles of the Fair Labor Standards Act. Conforming changes would also be made to section 7305 of the Community Improvement Volunteer Act of 1994.

These amendments are needed to provide administrative and Fair Labor Standards Act consistency and important protections against abuse by ensuring the exception is only applicable to bona fide volunteers.

SEC. 122. AUTHORIZATION OF APPROPRIATIONS FOR OPERATION SAFE HOME PROGRAM.

Section 122 authorizes appropriations for the Operation Safe Home program in the amount of $20 million for fiscal year 1998 and such sums as may be necessary for fiscal years 1999 through 2002. Currently, Operation Safe Home is authorized on a yearly basis in appropriations language.

Through Operation Safe Home, the HUD Inspector General's Office brings together a coalition of agencies to combat criminal and gang activity in public housing. Residents, managers and various Federal and local law enforcement agencies work together to reduce crime in the community.

TITLE II--SECTION 8 STREAMLINING AND OTHER PROGRAM IMPROVEMENTS

SEC. 201. PERMANENT REPEAL OF FEDERAL PREFERENCES.

Section 201 would make permanent the suspension of the federal preference criteria for selection of tenants in public housing, Section 8 programs, the Section 202 program, and the rent supplement program. Prior to their temporary suspension by the 1996 Continuing Resolution, federal preferences mandated that PHAs give a preference, in selecting tenants, to applicants in the following categories: families involuntary displaced, families living in substandard housing, or families paying more than 50% of income as rent. The suspension of federal preferences expires on September 30, 1997.

The permanent repeal of federal preferences would mean that for the public housing, Section 8 existing and moderate rehabilitation, and Section 8 voucher programs, a PHA would be permitted to establish a system of locally-designed tenant selection preferences, rather than having to use preferences required by federal rules that restrict public housing to the very poor. However, local preferences would have to be based upon local housing needs and priorities, as determined by the PHA using generally accepted data sources, including any information obtained pursuant to an opportunity for public comment under this provision, under the citizen participation requirements applicable to the PHA plan, and under the requirements of the jurisdiction's HUD-approved Consolidated Plan strategy.

Repeal of the federal preference is an important tool for PHAs to use in transforming public housing. In particular, a PHA would be able to develop local preferences that increase the number of working families in public housing, and promote working communities.

SEC. 202. INCOME TARGETING FOR PUBLIC HOUSING AND SECTION 8 PROGRAMS.

Section 202 would amend section 16 of the 1937 Act with regard to income eligibility and targeting for public and assisted housing. It would strike a balance by giving PHAs flexibility, while ensuring access to public and assisted housing for the lowest income families. PHAs would be able to serve households with a broad range of incomes, allowing them to

increase revenues and create economically mixed communities. At the same time, PHAs would continue to use scarce public housing resources to serve households with the most severe housing needs.

For public housing and Section 8 project-based assistance (including moderate rehabilitation and project-based certificates), the current law which limits eligibility to families whose income does not exceed 80% of the median income for the area would be retained. However, within that eligibility range, in a given year, at least 40% of new public housing and Section 8 project-based assistance (other than project-based certificate and moderate rehabilitation) admissions would be required to be households with incomes at or below 30% of the median income for the area and at least 90% of new admissions would be required to be households with incomes at or below 60% of the median income for the area. On a public housing development-by-development basis, at least 40% of households in occupancy would be required to have incomes below 30% of the median income for the area.

Under section 203, Merger of Tenant-Based Assistance, eligibility for the tenant-based certificate program generally would be restricted to families with incomes at or below 50% of the median income. In addition, section 202 provides that at least 75% of the families admitted to a PHA's combined tenant-based certificate, project-based certificate and moderate rehabilitation programs must be families whose incomes do not exceed 30% of the median income for the area. This additional target for admission of families whose incomes are at or below 30% of median income assures that assistance is continued to be directed to those with the greatest needs.

This provision targets tenant-based assistance to very-low, and particularly, extremely-low income families for several reasons. First, these targets will provide some limits on eligibility that have been provided in the past by mandatory federal preference requirements on admissions, which were applicable to 90% of all admissions to the tenant-based certificate and voucher programs and establishment. These federal preferences have been temporarily repealed through appropriations acts, and the Department has proposed their permanent repeal. The new combination of strict targets and locally-established preferences would produce a locally-responsive system that continues to serve the neediest families.

Second, targeting the tenant-based program to the lowest-income families will compensate for efforts to broaden the range of incomes served and deconcentrate poverty in public housing. Concerns about concentrations of extremely low-income families are not as strong in the context of portable assistance as they

are in public housing. (Under the federal preference system, this difference between the tenant-based and public housing programs was reflected in the application of federal preferences to 90% of tenant-based assistance but only 50% of public housing admissions.)

Third, the tenant-based targeting requirements would more effectively allocate portable resources to families most in need of greater mobility and housing choices.

For both the public housing and the Section 8 programs, income targeting would be applied on the basis of new admissions in a given year, rather than on the basis of households in occupancy. This ensures that most housing assistance that becomes available in a given year would be offered to the families with the greatest needs. With "households in occupancy" income targeting, a PHA or owner could offer assistance only to relatively higher income families until it came up against the overall targeting restrictions. Given the current concentrations of very low income households receiving assistance, PHAs and owners could admit relatively higher-income families for years before hitting the restrictions.

Although requiring overall income targets to be applied on the basis of new admissions, this provision would grant PHAs the flexibility to apply income targets on a "households in occupancy" basis to individual public housing developments. On a development-by-development basis, the PHA would have to ensure that at least 40% of all units were reserved for households with incomes below 30% of the median income for the area (with remaining households up to the eligibility limit of 80% of the median income for the area).

Allowing this potential acceleration of the admission of relatively higher-income families into a development is important for several reasons. First, it would permit a PHA to make more dramatic interventions into particularly distressed developments. Second, it would permit PHAs to develop rent policies in response to neighborhood markets, encouraging an asset-management approach to the stock. Finally, the other targeting requirements--40% of all units reserved for households with incomes at or below 30% of the median income for the area, and PHA-wide targets based on admissions--would mean that PHAs could not exclude the neediest families from either that development or assisted housing in the authority in general.

SEC. 203. MERGER OF TENANT-BASED ASSISTANCE PROGRAMS.

Section 203 would merge the existing Section 8 tenant-based Rental Certificate and Rental Voucher Programs under a revised section 8(o) of the U.S. Housing Act of 1937. This proposal would also make necessary conforming and technical changes and repeal obsolete and unnecessary provisions.

Subsection (a) would establish the new merged program -- called the Certificate program -- in an amended section 8(o). The following references to the provisions of section 8(o) refer to the proposed version, except where noted.

Section 8(o)(1) would provide the basic authorization for HUD to provide assistance under the new merged program. It is based on the existing section 8(o)(1), amended to make explicit in section 8(o)(2) that the payment standard could not be less than 80% nor more than the section 8 existing housing FMR or, in a submarket area, 120% of the FMR.

The payment standard feature would allow PHAs to establish payment standards below the HUD-established FMRs to reflect local rents, or to assist more families by providing a shallower subsidy. PHAs could react more quickly to changing real estate prices than is possible under the current Certificate program FMR system. PHAs would continue to determine that every contract rent is reasonable based on the rents of comparable units.

HUD would be authorized to review PHA requests to adopt a higher payment standard for a designated part of the market area, such as for a locality or part of a county. This review process would be similar to the process now used by HUD in reviewing and approving locality exceptions to FMRs justified by rents for submarkets that are higher than the average rent for the entire FMR area.

Section 8(o)(3) would establish the formula for determining rental assistance. For assistance under the merged program after October 1, 1998 (and to the extent shopping incentive funds are appropriated), the monthly assistance payment for families that move from their pre-program unit would be the lower of (a) the difference between the payment standard and the family contribution (higher of 30% of adjusted income, 10% of gross income, welfare rent and, if applicable, the $25 minimum rent) and (b) the difference between the rent (plus any utility allowance) and 10% of gross income. For all other families, the assistance payment is the lower of (a) difference between the payment standard and the family contribution and (b) the difference between the rent (plus and utility allowance) and the family contribution.

It is noted that the shopping incentive is currently applicable to voucher families and is not applicable to certificate families. It is anticipated that most voucher families that currently pay lower rent because of the shopping incentive feature will continue to receive a shopping incentive under the "old" voucher program until they move to a new unit and transfer to the "new" tenant-based program. Therefore if funds are appropriated for payment of a shopping incentive, it is likely that families currently receiving a shopping incentive will be eligible to receive one under the new program if they continue to rent a unit with a rent below the payment standard.

As under current section 8(o)(3)(A), very low-income families could receive a tenant-based certificate. In addition, families with incomes up to 80% of the median income for the area could receive tenant-based assistance, if they meet eligibility criteria specified by HUD such as low-income families previously assisted under the 1937 Act. The new certificate program does not use the voucher model, which identifies specific categories of families who may receive a voucher even if their income is above 50% of the area median (but no more than 80%), such as families that qualify to receive a voucher in connection with a HOPE homeownership program. The voucher model is too narrow and complicated and cannot cover all categories of families that should be included since that list will continue to change over time. Providing for exceptions specified by HUD through regulations would allow a more flexible vehicle for granting exceptions to appropriate categories of families without legislative change.

Section 8(o)(5) would retain the current provision in section 8(o)(4) that if a family vacates a unit, no assistance payment may be made with respect to the unit after the month during which the family vacated the unit.

Section 8(o)(6) would include the current Voucher program requirements for a PHA to inspect units to assure they meet housing quality standards.

The first sentence of section 8(o)(5) of existing law would not be included. That section includes a requirement that the initial term for an ACC under the voucher program must be 5 years. This is not the current practice for either the certificate or voucher program and there is no reason to retain it here.

The provisions for cooperative and mutual housing in section 8(o)(7) of existing law would be deleted because they are no longer necessary now that a tenant-based section 8 homeownership

program is available to low-income families under section 8(y). The homeownership program provides a broad authorization for use of section 8 tenant-based assistance for homeownership, including cooperatives and mutual housing. In addition, section 8(y) is being revised to allow participation of families who already own their cooperative or mutual housing units. This revision is necessary so that cooperative homeowners who are not first-time homebuyers would continue to be eligible for section 8 subsidies if the other requirements of section 8(y) are met.

Section 8(o)(6)(B) of existing law would be repealed. That section requires each ACC be in an amount equal to 115% of the estimated aggregate amount of assistance during the first year of the contract. This is an excessive amount for a one year ACC.

Section 8(o)(8) of existing law would be repealed. That section authorizes HUD to use up to 5% of available budget authority as an adjustment pool, to support higher subsidy needs where a PHA adjusts its payment standards.

Section 8(o)(9) of existing law would not be retained, since it is unnecessary. It authorizes HUD to enter into contracts to provide vouchers for replacing public housing transferred under the HOPE 1 program.

The new section 8(o)(8) would apply rent reasonableness requirements to the merged program. The special rule in the penultimate sentence of section 8(c)(1) for determining rent reasonableness for units that are exempt from local rent control would be repealed.

Sections 8(d)(2) and 8(o)(12) of existing law that authorize assistance for project-based certificates and manufactured homeowners who rent pads would be repealed and new families and units could not be assisted under these provisions. These are administratively complex subprograms within the tenant-based program which are rarely used, and not justified in times of diminished HUD and PHA resources.

Subsections (b), (c) and (d) would contain miscellaneous technical and conforming amendments. In addition, obsolete and unnecessary provisions would be repealed.

SEC. 204. SECTION 8 ADMINISTRATIVE FEES.

Section 204 would make a technical correction in the calculation of administrative fees for FY 1997 in connection with

the Certificate, Voucher, and Moderate Rehabilitation programs. This section would establish FY 1997 fees equal to 7.65% of the base amount for the first 600 units, whereas HUD's FY 1997 appropriations Act provides for 7.5% of the base amount.

This amendment would restore the Section 8 administrative fee provisions to those proposed in the Administration's budget for fiscal year 1997.

SEC. 205. SECTION 8 HOMEOWNERSHIP.

Section 205 would make several improvements to the authority in section 8(y) of the 1937 Act that permits families to use section 8 tenant-based assistance under the Certificate program for homeownership.

Paragraph (1) would give PHAs the discretion to determine whether families may use tenant-based assistance for homeownership and would make use of lease-purchase agreements explicitly eligible. Current law gives families the discretion to use their assistance for homeownership.

Paragraph (2) would permit families that own or are acquiring shares in a cooperative to receive section 8(y) homeownership assistance.

Paragraph (3) and (4) would eliminate the alternative requirement that a family participate in the Family Self-Sufficiency (FSS) program under section 23 of the 1937 Act. Current law requires that a family participate in the FSS program or demonstrate it has sufficient income. In addition, these paragraphs would modify eligibility requirements to allow the Secretary to determine the amount and type of earned income (e.g., a full-time or several part-time jobs). Elderly and disabled homebuyers could be excepted from the earned income and employment duration requirements. Current law requires that homebuyers have income (other than public assistance) that is not less than twice the payment standard and that they be employed for a period specified by the Secretary.

Paragraph (5) would authorize targeting of homeownership assistance to certain families for certain program purposes such as to families assisted in connection with the FHA multifamily demonstration under section 212 of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1997.

Paragraph (6) would modify the subsidy formula by removing the shopping incentive under the homeownership program. The shopping incentive for the rental voucher program permits a family to retain the savings if it rents a unit for less than the payment standard so long as it pays at least 10% of gross income for rent. In addition, paragraph (6) would amend the assistance formula so assistance is based on the highest of 30% of adjusted income, 10% of gross income, welfare rent, or minimum rent, as is the case for the rental program. Paragraph (6) would also remove the requirement that HUD exclude from family income an amount imputed from the equity of the family in the home.

Paragraph (7) would redesignate the current paragraphs (6), (7), and (8) as paragraphs (8), (9), and (10).

Paragraph (8) would revise the inspection requirements, revise the complicated and restrictive recapture rule, remove the limitation on assistance being provided under other programs, revise current downpayment requirements, establish a reserve for replacement, and limit the use of tenant-based assistance for homeownership.

The recapture provision was revised to require that both the PHA and the family share any net sale proceeds and that the PHA portion of any recaptured sale proceeds be used for tenant-based subsidies. The downpayment provision was revised to require the homebuyer to contribute a significant portion of the downpayment from its own resources, including any sweat equity.

Paragraph (8) limits the number of homeownership units to 10 percent of a PHA's total tenant-based units and 5 percent of all tenant-based units nationwide. Further, this paragraph requires a pre-purchase inspection by an independent professional, and that any cost of necessary repairs be paid by the seller. The certificate program requirement that each assisted unit pass an initial and annual HQS inspection would not apply to homeownership units. In addition, paragraph (8) requires each family to set aside 1 percent of the monthly mortgage principal and interest payment for 5 years in a reserve for repairs and replacements. Any balance in the replacement reserve account at the end of the 5 year period will revert to the homebuyer.

Paragraph (8) would also authorize the Secretary to establish additional program requirements such as a limit on the time a family could receive assistance under the homeownership program and to make appropriate program modifications for lease-purchases.

Unnecessary FSS escrow provisions in the current section 23(d)(3) and current 8(y)(7)(A)(iii) would be repealed by paragraph (9) and subsection (b).

Paragraph (10) would prohibit adding families to the Section 8 homeownership program after September 30, 2002. HUD would also be required to evaluate the program after this 5-year sunset period.

These provisions would make the Section 8 homeownership program workable by allowing lease-purchase and cooperative arrangements; modifying the recapture and downpayment provisions; eliminating rigid self-sufficiency requirements as well as the bar on receipt of other subsidies; restricting the number of homeownership units to ensure that tenant-based program continues to address renter needs; eliminating overly restrictive provisions with respect to the disabled; substituting a pre-purchase inspection for the rental certificate program HQS requirements; and clarifying the subsidy structure.

SEC. 206. WELFARE TO WORK CERTIFICATES.

Section 206 would authorize, subject to appropriations, tenant-based certificate funding for a welfare to work demonstration and for technical assistance in connection with the demonstration. Funding would be awarded to collaboratives consisting of a welfare agency and one or more PHAs. Each collaborative would propose a program design that is consistent with the state-wide welfare reform initiative, addresses local housing market conditions, and shows significant promise of assisting families in maintaining employment or making the transition from welfare to work.

Tenant-based assistance can support welfare to work efforts by providing families with a stable and secure place to live while they get the training they need, seek employment, and make the transition to self-sufficiency. Housing costs are often unaffordable for families working at low wage jobs, so housing assistance can play a crucial role in easing the transition from welfare to self-sufficiency. Among working poor families with children -- those with incomes below 30 percent of median, which is roughly the equivalent of the poverty level -- 675,000 (67 percent of those not receiving housing assistance) have acute or worst-case housing needs. Usually this means they are paying over half their income for rent; sometimes they are also living in severely substandard housing. Tenant-based assistance allows families to choose housing in locations that best meet their

individual needs, enabling them to move if necessary to gain access to jobs, schools, training, and other opportunities.

The Secretary would be authorized to waive statutory certificate program requirements (or specify substitute requirements) such as the amount of rental assistance, the family contribution towards rent, and the amount of rent to the owner. This will allow the PHA/welfare agency collaboratives to design programs that provide benefit phase-downs, reductions in subsidy for dropping out of a self-sufficiency program, and other work incentives.

Receipt of welfare to work certificates would not require the PHA to increase the size of its FSS program.

SEC. 207. EFFECT OF FAILURE TO COMPLY WITH PUBLIC ASSISTANCE REQUIREMENTS.

Section 207 would amend Section 3(a) of the 1937 Act to provide that there be no reduction in public or assisted housing rents in response to a tenant's reduced income resulting from non-compliance with welfare or public assistance program requirements. However, the provision would permit such a reduction where a family's welfare benefits are reduced because a State or local law limits the period during which benefits may be provided.

Under the rent setting provisions of current law, a family's rent is reduced when its income declines, including when the decline is from a drop in welfare benefits. Under this provision, a PHA would continue to determine a family's rent as it does under current law unless and until the PHA receives written notification from the relevant welfare or public assistance agency specifying that the benefits of the family had been reduced because of noncompliance with welfare program requirements and the level of such reduction.

Public housing families covered by this provision would have the right to review any determinations made through the administrative grievance procedures established under section 6(k) of the 1937 Act.

This provision would not authorize any PHA to limit the duration of tenancy in a public housing dwelling unit or of tenant-based assistance.

In some households that have had their rent frozen after being dropped from welfare assistance for noncompliance, the head of household or other family member may obtain a job. Income from that job, up to the amount of the reduction for noncompliance, would be excluded from rent or family contribution calculations during the period the family would otherwise be eligible for welfare or public assistance benefits under the program.

This provision would support resident responsibility and welfare reform and discourage residents from non-compliance with welfare or public assistance program requirements. However, it is possible that some families would meet all requirements of their welfare assistance programs, but would be unable to find work prior to the expiration of any State or local time limits on assistance. This provision would allow rent reductions for families in that situation.

SEC. 208. STREAMLINING SECTION 8 TENANT-BASED ASSISTANCE.

Section 208 would make permanent the suspension of three section 8 tenant-based assistance requirements ("take-one, take-all," 90-day notice for the Certificate and Voucher programs, and endless lease) that have been suspended since HUD's FY 1996 appropriations Act.

The "take-one, take-all" provision in section 8(t) of the 1937 Act required owners who have entered into a housing assistance payment (HAP) contact on behalf of any tenant in a multifamily housing project to lease any available unit in the project to an otherwise qualified holder of a certificate or voucher.

The 90 day notice provision for the Certificate and Voucher programs required that owners notify tenants 90 days prior to the termination (and expiration if a rent increase will result) of a contract.

The endless lease provision required that owners not terminate tenancy, except for serious or repeated violations of the lease, the law, or for other good cause. This section would limit this requirement to the lease term.

The effect of these amendments is to reduce the Section 8 tenant-based assistance program's administrative burden, reduce potential exposure of participant landlords litigation, and make the landlord-tenant relationship more closely resemble that of

the private market. Permanent enactment of these measures should encourage landlords to participate in the program, thus expanding the program's available housing stock.

SEC. 209. INCOME VERIFICATION.

Section 209 would repeal the sunset in current law regarding HUD access to certain tenant income information contained in IRS data or information held by certain State agencies.

Subsection (a) would amend Title 3 (Unemployment Insurance) of the Social Security Act to repeal the termination date (October 1, 1994) for certain provisions providing HUD access to State employment-related information.

Subsection (b) would amend the Internal Revenue Code (IRC) to repeal the termination date (September 30, 1998) for certain housing program disclosure authority.

The Department supports measures that increase HUD's ability to establish and verify correct tenant incomes while protecting tenants' privacy rights. These provisions are tools to help HUD verify applicants' wage and income data and stop individuals who defraud the government. The GAO has found that unreported income abuse is a serious problem.

SEC. 210. NONDISCRIMINATION AGAINST CERTIFICATE AND VOUCHER HOLDERS.

Section 210 provides that owners of multifamily projects assisted with federal funding (such as project-based assistance under the 1937 Housing Act, CDBG, HOME, low-income tax credits, emergency shelter grants under the McKinney Homeless Assistance Act, and FHA mortgage insurance) must not refuse to lease a reasonable number of units to families with Section 8 tenant-based certificates because of the status of prospective tenants as assisted families. The Secretary would be authorized to establish reasonable time frames for applying this requirement, taking into account the total amount of federal assistance and the share of federal assistance relative to the total development, rehabilitation, financing or other cost.

The purpose of this amendment is increase the number of units available for leasing to certificate holders. It will also ensure that owners of projects that receive federal assistance treat assisted families fairly.

SEC. 211. RECAPTURE AND REUSE OF ACC PROJECT RESERVES UNDER THE TENANT-BASED ASSISTANCE PROGRAM.

This section would authorize the Secretary to recapture excess funding from an agency's Annual Contributions Contract (ACC) reserve account. Once recaptured, the Secretary may hold recaptured amounts in reserve until needed to amend or renew such contracts with any agency.

This provision enhances the Department's ability to allocate scarce resources in an efficient and effective manner. The provision enables the Department to redistribute funds from the accounts of agencies that do not have an immediate need for them to those agencies where need is immediate. In this way, the Department can be sure that it is fully utilizing appropriated funding at all times.

SEC. 212. EXPANDING THE COVERAGE OF THE PUBLIC AND ASSISTED HOUSING DRUG ELIMINATION ACT OF 1990 TO INCLUDE OTHER TYPES OF CRIME AND TO PROVIDE FORMULA FUNDING.

Section 212 would substantially revise the current authorizing legislation for the Public Housing Drug Elimination Program authorized under the Public and Assisted Housing Drug Elimination Act of 1990 (Drug Elimination Act). The proposed language in section 212(a) would reflect and authorize the expansion of the program's coverage from "anti-drug-related crime" to the broader "anti-crime," by conforming language to that effect throughout the Drug Elimination Act. Section 212(b) of the proposed bill makes amendments to section 5125 of the Drug Elimination Act that would convert the grant allocation methodology for PHAs from competitive to formula-based. Section 212(b)(2) grants the Secretary the authority to withhold, withdraw, or deny funds to authorities that do not perform well on a security indicator established by the Secretary. In addition, planning and reporting requirements on these grants are incorporated into housing authorities' Plan submissions under section 212(c). Section 212(d)'s amendments to section 5130 of the PAHDEA Act would authorize appropriations, repeal the mandatory five percent set-aside for Youth Sports and create a new technical assistance and clearinghouse services set-aside.

The amended language proposed in sec. 212(a) would authorize the Department and its grantees to undertake activities that

would eliminate not only drug-related but all crime and those committing and facilitating it from public and assisted housing.

The proposed language in 212(b) will update and streamline the Drug Elimination Grants program for public and tribal housing authorities. It will also build in sanctions for poor performance to build responsibility into deregulation. The primary mechanism for doing so is the conversion of the program from competitive to formula-based allocation. Converting the Drug Elimination Grants program for PHAs to a formula-based program will facilitate strategic program planning and design through the provision of a predictable source of funds (subject to appropriations), which the current competitive system does not. Formula grants also conform to the realities of HUD's staffing and fiscal constraints now and in the coming years. Elimination of staff-intensive competitive processes would make it possible for the Department and authorities to allocate precious staff resources more effectively.

The new formula grant would also be performance-based, however. Section 212(b)(2) will enable the Department to withhold, withdraw, or deny funds under this section to housing authorities that do not perform well on security indicators established by the Secretary.

Section 212(c) streamlines the program by reducing the reporting burden on Has participating in the formula program. Currently, housing authorities must submit financial and performance reports on the execution of funds received under this program on semi-annual basis. A comprehensive annual report on all anti-crime and anti-drug activities conducted by PHAs is one component of the PHA Plan proposed by the Department under Section 106 of this bill. Section 212(b) removes current requirements for separate semi-annual reporting on Drug Elimination Grants and allows PHAs to report on activities conducted with these funds as part of the PHA Plan. Section 212(b) also allows tribal housing authorities to report on Drug Elimination Grant execution through a similar security and anti-crime component of the Indian Housing Plan that was established under the Sec. 102 of the Native American Housing Assistance and Self-Determination Act of 1996.

The proposed language in 212(d) updates the program's appropriations set-asides to reflect current needs. This language permanently eliminates the mandatory set-aside for the Youth Sports program, which is duplicative of activities eligible under the larger program and, more importantly, also requires a separate competition for allocation. Maintenance of a separate Youth Sports program set-aside runs counter to the Department's

efforts to devolve program design to PHAs and to eliminate administrative burdens on the Department and authorities. This language does add a new set-aside for technical assistance and clearinghouse services. This set-aside is necessary to enhance the Department's capacity to facilitate best practices and maximize program effectiveness among grantees. Congress has been authorizing these activities on a year-to-year basis through appropriations language. Section 212(d)(1) authorizes $290 million for appropriations to carry out the programs of this Section in fiscal years 1998 through 2002.

Section 212 retains one component of the currently-authorized program: the set-aside for grants to federally-assisted housing projects. Federally-assisted projects do not lend themselves to formula funding, particularly given the limited amount of grant funding available. In addition, these projects do not have the performance reporting mechanisms that are required of the public and tribal authorities by other provisions of this bill. However, the federal government has an interest in providing anti-crime funds to the HUD-assisted families that live in these developments. Therefore, these grants will continue to be allocated on a competitive basis, subject to the criteria specified in Section 212(b) of the HUD bill. Section 212(d) retains the funding set-aside for these grants.

TITLE III--"ONE-STRIKE AND YOU'RE OUT" OCCUPANCY PROVISIONS

SEC. 301. SCREENING OF APPLICANTS.

Subsection (a) deems whole households or individual household members who were evicted for certain proscribed activity to be ineligible for federally assisted housing. If the previous eviction was for drug-related criminal activity, the evicted member of the household shall be deemed ineligible for a period of at least three years unless that household member successfully completes a rehabilitation program. For evictions due to other serious lease violations, the PHA or owner shall determine a reasonable period of time during which the previously evicted member will be considered ineligible. If the circumstances leading to eviction no longer exist, the ineligibility restrictions may be waived.

Subsection (b) requires PHAs and owners of federally assisted housing to establish standards that prohibit admission

for any household member (1) who the PHA or owner determines is currently engaging in the illegal use of a controlled substance, or (2) who the PHA or owner has reasonable cause to believe that such household member's illegal use of a controlled substance (or pattern) or abuse of alcohol (or pattern) would interfere with the health, safety, or right to peaceful enjoyment of the premises by other residents.

In determining whether to deny admission based on a pattern of illegal use of a controlled substance or a pattern of abuse of alcohol, subsection (c) permits PHAs and owners to take into consideration whether the household member is no longer illegally using a controlled substance or abusing alcohol, and (1) has successfully completed an accredited rehabilitation program, or (2) has otherwise been successfully rehabilitated, or (3) is participating in an accredited rehabilitation program.

In addition to the provisions of sections 301(a) and (b) and any other authority to screen applicants, subsection (d) permits PHAs and owners to establish a reasonable period of time prior to admission during which applicants are expected to refrain from engaging in any criminal activity. Subsection (d) allows PHAs and owners to deny admission to any applicant or household member determined to have engaged in drug-related or violent criminal activity or other criminal activity which would adversely affect the health, safety, or right to peaceful enjoyment of the premises by other residents during this reasonable period. After expiration of the reasonable period and as a condition of admission, PHAs and owners shall require such applicant to ensure that they (or those in their household who engaged in the proscribed activity) have not engaged in any criminal activity during the period. The Secretary shall establish by regulation the evidence sufficient to satisfy the assurance provisions of this section.

Subsection (e) provides PHAs with the authority to require, as a condition of admitting to or providing occupancy in public housing, that each adult household member provide a signed, written authorization with which the PHA may obtain criminal conviction records (as described in section 304) from the National Crime Information Center, police departments, or other law enforcement agencies.

SEC. 302. TERMINATION OF TENANCY AND ASSISTANCE.

Subsection (a) requires PHAs and owners to establish standards or lease provisions for continued assistance or

occupancy in federally assisted housing that permit PHAs and owners to terminate tenancy or assistance for any household with a member (1) who the PHA or owner determines is engaging in the illegal use of a controlled substance, or (2) whose illegal use of a controlled substance, or whose abuse of alcohol, is determined by the public housing agency or owner to interfere with the health, safety, or right to peaceful enjoyment of the premises by other residents.

Subsection (b) requires PHAs to terminate tenant-based assistance for all household members if the household is evicted from assisted housing for serious violation of the lease.

SEC. 303. LEASE REQUIREMENTS.

Each lease for a dwelling unit in federally assisted housing shall include the following mandatory terms: (1) the owner may not terminate the tenancy except for serious or repeated violation of the terms and conditions of the lease, violation of applicable Federal, State, or local law, or other good cause; and (2) grounds for termination of tenancy shall include any activity, engaged in by the tenant, any member of the tenant's household, any guest, or any other person under the control of any member of the household, that (A) threatens the health or safety of, or right to peaceful enjoyment of the premises by, other tenants or employees of the public housing agency, owner or other manager of the housing, (B) threatens the health or safety of, or right to peaceful enjoyment of their residences by, persons residing in the immediate vicinity of the premises, or (C) is drug-related or violent criminal activity on or off the premises.

SEC. 304. AVAILABILITY OF CRIMINAL RECORDS FOR PUBLIC HOUSING TENANT SCREENING AND EVICTION.

Subsection (a) requires the National Crime Information Center (NCIC), a police department, and any other law enforcement agency to provide information upon request regarding the criminal conviction records of an adult applicant for, or tenants of, public housing for purposes of applicant screening, lease enforcement, and eviction. The PHA must first request such information and must present a written, signed authorization form before such information may be released to the PHA. Juvenile records are releasable only to the extent authorized under the law of the applicable State, tribe, or locality.

Under subsection (b), PHAs may use information received under this section only for the purposes provided in this section. Such information may not be disclosed to any person who is not an officer, employee, or authorized representative of the PHA. Disclosure may only be made to such person who has a job-related need to have access to the information in connection with admission of applicants, eviction of tenants, or termination of assistance. However, for judicial eviction proceedings, disclosures may be made to the extent necessary. The Secretary shall, by regulation, establish procedures necessary to ensure that information provided under this section is used, and the confidentiality of such information is maintained, as required under this section.

Under subsection (c), before an adverse action is taken with regard to assistance for public housing on the basis of a criminal record, the PHA shall provide the tenant or applicant with a copy of the criminal record and an opportunity to dispute the accuracy and relevance of that record.

Subsection (d) provides that a PHA may be charged a reasonable fee for information provided under subsection (a).

Subsection (e) requires each PHA that receives criminal record information under this section to establish and implement a system of records management that ensures that any criminal record received is maintained confidentially, is not misused or improperly disseminated, and is destroyed in a timely fashion, once the purpose for which the record was requested has been accomplished.

Under subsection (f), any person who knowingly and willfully requests or obtains any information concerning an applicant for, or resident of, public housing under false pretenses, or any

person who knowingly or willfully discloses any such information in any manner to any individual not entitled under any law to receive it, shall be guilty of a misdemeanor and fined not more than $5,000. The term "person" as used in this subsection shall include an officer, employee, or authorized representative of any PHA.

Subsection (g) permits any applicant for, or resident of, public housing affected by either (1) a negligent or knowing unauthorized disclosure of confidential information by an officer or employee of any PHA, or (2) any other negligent or knowing action that is inconsistent with this section, to bring a civil action for damages and such other relief as may be appropriate against any PHA responsible for such unauthorized action. Jurisdiction over such matters shall reside in the district court of the United States in the district in which the affected applicant or resident resides, in which such unauthorized action occurred, or in which the officer of employee alleged to be responsible for any such unauthorized action resides. Reasonable attorney's fees and other litigation costs may be awarded as appropriate.

Subsection (h) defines the term "adult" as a person who is 18 years of age or older, or who has been convicted of a crime as an adult under any Federal, State, or tribal law.

SEC. 305. DEFINITIONS.

Subsection (a) defines the term "federally assisted housing" which means a unit in (1) public housing under the 1937 Act; (2) housing assisted under section 8 of the 1937 Act, including both tenant-based assistance and project-based assistance; (3) housing that is assisted under section 202 of the Housing Act of 1959 (as amended by section 801 of the Cranston-Gonzalez National Affordable Housing Act); (4) housing that is assisted under section 202 of the Housing Act of 1959, as such section existed before enactment of the Cranston-Gonzalez National Affordable Housing Act; (5) housing that is assisted under section 811 of the Cranston-Gonzalez National Affordable Housing Act; (6) housing financed by a loan or mortgage insured under section 221(d)(3) of the National Housing Act that bears interest at a rate determined under the proviso of section 221(d)(5) of such Act; (7) housing with a mortgage insured, assisted, or held by the Secretary or a State or State agency under section 236 of the National Housing Act; and (8) for purposes only of subsections 301(c) (consideration of rehabilitation), 201(d) (authority to deny admission for criminal offenders), 203 (lease requirements),

and 304 (availability of criminal records for screening and eviction), housing assisted under section 515 of the Housing Act of 1949.

Subsection (b) defines the term "drug-related criminal activity" as the illegal manufacture, sale, distribution, use, or possession with intent to manufacture, sell, distribute, or use, of a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)).

Subsection (c) defines the "owner" to mean the entity or private person, including a cooperative or PHA, that has the legal right to lease or sublease dwelling units in such housing.

SEC. 306. CONFORMING AMENDMENTS.

Section 306 deletes the relevant "One-Strike and You're Out" provisions from Sections 6, 8 and 16 of the 1937 Act since they are incorporated into this new Title III. The provisions that are hereby deleted include the (1) mandatory criminal activity and drug-related criminal activity lease provisions for public and assisted housing, (2) the definition of "drug-related criminal activity" for both public and assisted housing, (3) access to criminal records for public housing admission and eviction screening purposes, as added by the Housing Opportunity Program Extension Act of 1996 (Extension Act), and (4) the One-Strike heightened occupancy provisions of the Extension Act. The necessary conforming repeals of section 6(c)(4)(A)(iii) and section 8(d)(1)(A)(iii) are being accomplished under the permanent repeal of the federal preferences contained in section 201 of this bill.

Expanding and consolidating these One-Strike provisions in one title will enhance PHA and owner ability to get tough on crime in federally assisted housing and to hold assisted households accountable for the actions of each household member and guest.